

### **REMARKS**

Claims 1-9 and 12-24 are pending in the present application. Claims 10 and 11 have previously been canceled. Claims 20-24 have been added to more particularly define what Applicants regard as their invention. Claims 1, 9, 13, 17, 18 and 19 are independent.

Applicants appreciate the Examiner's withdrawal of the previous rejections under 35 USC 112, first paragraph. As well as the art based rejections. A new ground of rejection was made in the last Office Action.

#### **Summary of Examiner Interview**

Applicant's representative Michael R. Cammarata contacted Examiner Timothy Henn on February 28, 2006. This interview was initiated to clarify the status of claims 20-23 that were submitted in the After Final Amendment filed February 6, 2006. The Advisory Action did not indicate the status of these newly added claims 20-23. Given that these newly added claims 20-23 were closely patterned after the allowable subject matter of claim 2, Applicants expect that claims 20-23 would also be allowable. After some discussion, Examiner Henn confirmed that claims 20-23 also recite allowable subject matter and would be allowed if rewritten into independent form including the features of the base claim and any intervening claims. Applicants appreciate the Examiner's indication during the interview. The same claims 20-23 are being resubmitted with this Reply together with the RCE request.

Applicants further request a more detailed examination of the arguments presented in the After Final response which are re-presented here for the Examiner's consideration.

#### **Allowable Subject Matter**

Applicants appreciate the Examiner's indication that claims 2-4, 6, 7, 14 and 15 recite allowable subject matter and would be allowed if rewritten into independent form including all of the features of the base claim and any intervening claims. In this regard, it is specifically noted that the newly added claims 20-23 are closely patterned after the allowable subject matter of

claim 2 as further explained on page 6 of the Office Action. Thus, these newly added claims 20-23 should also be in condition for allowance and Applicants would appreciate a formal indication therefore.

Applicants further appreciate the Examiner's indication that claim 18 contains allowable subject matter and would be allowed if amended to overcome the claim objection. As further noted below, this claim objection has been overcome and Applicants respectfully request a further indication that claim 18 is indeed allowable at this time.

Furthermore, Applicants appreciate the Examiner's indication that claims 9 and 12 are allowed.

Applicants have also submitted new claim 24 that is closely patterned after the Examiner's comments in the Advisory Action. Specifically, in the response to arguments attachment to the Advisory Action, Examiner Henn indicated that "if the claims were amended to include defining the predetermined rate prior to the acquiring of an image in the claims, and processing the image such that the output image has a rate of pixels having a maximum output which is equal to the previously defined rate, this interpretation of the Ozawa reference would no longer be valid." Newly submitted claim 24 attempts to capture this range of allowable subject matter that is generally indicated by the statement quoted above. Therefore, Applicants respectfully request a formal indication of allowability additionally for newly submitted claim 24.

#### Claim Objections

Claims 17-19 are objected to because the term "chrominance" was used when the term "color" would be more appropriate. Applicants have changed the term "chrominance" to "color" in claims 17-19 to overcome this objection. Applicants further point out that the term "color" is actually a broader term that encompasses chrominance. In any event, any objectionable language within claims 17-19 has clearly been removed and Applicants respectfully request reconsideration and withdrawal of the claim objection.

35 USC 102(e) Ozawa Rejection

Claims 1, 5, 13, 17 and 19 are rejected under 35 USC 102(e) as being anticipated by Ozawa (USP 6,080,104). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Ozawa is directed to an electronic endoscope system in which the aperture size for regulating the amount of light emitted by the light source is controlled according to the result of histogram processing. Although Ozawa does form histograms and does appear to express the color signal as a brightness value Y and a pair of color difference signals u, v, Ozawa fails to disclose or suggest the invention as recited in the independent claims.

Specifically, Ozawa fails to make an adjustment to the image so that a rate (ratio) of pixels having a maximum brightness is equal to a predetermined rate (ratio) as recited in claim 1. The column 7-8 citation offered by the Office Action fails to disclose or suggest any such concept. In contrast, Ozawa merely discloses a standard histogram transformation process in which a lookup table is utilized to convert an input density value to an output density value. This transformation certainly does not disclose or suggest the method of making an adjustment to the image so that a rate (ratio) of pixels having a maximum brightness is equal to a predetermined rate (ratio).

As to independent claim 13, Ozawa also fails to disclose or suggest data transformation means for automatically performing a data transformation process on the acquired digital data according to the histogram (computed by the claimed brightness analyzing means) so that a rate (ratio) of pixels having a maximum brightness is equal to a predetermined rate (ratio). Again, Ozawa's histogram transformation process and aperture size adjustment method failed to disclose or suggest any such data transformation means as recited in independent claim 13.

As to independent claim 17, Ozawa also fails to disclose or suggest making an adjustment to the pixel value so that a rate (ratio) of pixels having a maximum brightness is equal to a predetermined rate (ratio).

Likewise, Ozawa fails to disclose or suggest the features of independent claim 19, particularly the data transformation means for automatically performing a data transformation process on the acquired digital data according to said histogram computed by the claimed brightness analyzing means) so that a rate of pixels having a maximum brightness among all pixels is equal to a predetermined rate. There is simply no such concept or specific disclosure in Ozawa that anticipates at least this feature.

Furthermore, dependent claims, such as dependent claim 5 should be considered allowable at least because of their dependence upon the independent claims which have either been specifically allowed or for which the allowability has been argued above.

For all of the above reasons, taken alone or in combination, Applicants respectfully request reconsideration and withdrawal of the Section 102(e) Ozawa rejection.

#### 35 USC §103(a) Ozawa-Nagasaka Rejection

Claims 8 and 16 are rejected under 35 USC 103(a) as being unpatentable over Ozawa in view of Nagasaka (USP 6,157,744). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

The patentability of independent claims 1 and 13 is set forth above. Applicants hereby incorporate those arguments by reference. Furthermore, Nagasaka does not remedy any of the noted deficiencies in Ozawa. Indeed, Nagasaka is merely applied to teach determining the luminance according to a specific equation. This feature is not relied upon for patentability at this time. Still further, neither Ozawa nor Nagasaka even when taken in combination disclose or suggest the asserted features of the independent claims. Therefore, this obviousness rejection should be reconsidered and withdrawn.

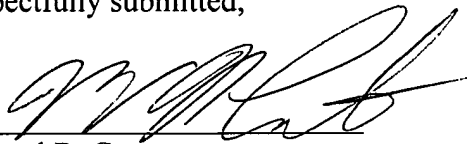
Conclusion

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Michael R. Cammarata (Reg. No. 39,491) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

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Respectfully submitted,

By 

Michael R. Cammarata  
Registration No.: 39,491  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant